

REMARKS

After entry of the current Amendment, claims 1, 21 and 22 are pending in the above-identified application. Claims 2-20 have been canceled. Claims 1, 21 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Haikin (U.S. Pat. No. 6,757,893) in view of Akin et al. (U.S. Pat. No. 6,182,245; hereinafter referred to as “Akin”) and further in view of Thames et al. (U.S. Pat. Pub. No. 2004/0189713; hereinafter referred to as “Thames”).

Applicants submit that these amendments and remarks overcome all of the Examiner’s outstanding rejections and bring the present Application into condition for allowance. Entry of this amendment and a notice of allowance of all the remaining claims are therefore respectfully solicited.

Rejections Based on §103(a)

Claims 1, 21 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Haikin in view of Akin and further in view of Thames. The current Office Action dated May 21, 2008 (O.A.) relies upon Haikin and Akin for “mak[ing] changes to a **first section of source code** ... producing a **first** modified section of code,” “mak[ing] changes to the **first section of source code** ... producing a **second** modified section of code,” and “comparing said first test result with said second test result.” Haikin, Akin and Thames, separately or in combination, do not teach or suggest this subject matter of Applicants’ claims for the following reasons.

Haikin is directed to a software version control system. There is no suggestion of code comparison and, therefore, the O.A. relies upon Akin for this aspect of Applicants’ claimed subject matter. However, the two programs described in Akin, i.e. “Test Program A 312” and “Test Program B 334” (FIG. 3), are not described as modifications of the same section of code, i.e. a “first section of code”. There is simply no suggestion that Test Programs A and B are even related much less generated from the same code. The results of the Test Program A 312 and Test Program B 334 are also not compared to each other but rather to their own “expected results,” or specifically “Expected Results 1A, 2A or 3A” (324, 326 & 328; FIG. 3) and

“Expected Results 1B, 2B and 3B” (332, 334 & 336; FIG. 3), respectively, and there is no suggestion that Akin’s “expected results” are generated by executing actual code.

Although Akin illustrates testing “Test Program A” in conjunction with a Design 1, 2 and 3, this does not suggested that the different designs are related to modified code but rather to different “delay files, technology files, and layout files (col. 4, lines 6-7) and different “expected results.” The fact that there is only one version of code tested is illustrated as follows:

[A] single test case may comprise multiple designs, multiple expected results or other data files and program code.”

(col. 6, lines 15-17). In other words, although Akin describes multiple designs and multiple expected results, he clearly only describes a single program code, illustrated in Figure 3 as Test Program A 312. In addition in each of Akin’s test cases, there is a different expected result, i.e. Expected Results 1A, 2A and 3A and no indication that these are compared to each other. Further, as stated above, there is no suggestion that Akin’s “expected results” are in fact generated from the execution of actual modified code.

In short, the competitive programming of Applicants’ claimed subject matter, i.e. comparing results of two modified versions of the same code, is completely missing from both Haikin and Akin because there is no comparison of the results of two different modified codes. Thames, which is directed to the generation of documentation rather than actual programming code does not provide that which Haikin and Akin lack.

Applicants also submit that the generation of documentation is substantially different than the generation and testing of source code. There is simply no reasonable expectation that one with skill in the art would combine a source code control system with a software test system and then with a documentation generation system, each of which seem to be completely different subject areas.

To establish *prima facie* obviousness of a claimed invention under §103(a), all the claim limitations must be taught or suggested by the prior art. (M.P.E.P., §2143.03, citing *in re Royka*, 490 F.2d 981; 180 U.S.P.Q. 580 (CCPA 1974)). In addition, “**All words in a claim must be considered** in judging the patentability of that claim against prior art.”

(*Id.*, citing *In re Wilson*, 424 F.2d 1382, 1385; 165 U.S.P.Q. 494, 496 (CCPA 1970); *emphasis added*). Applicants believe that the cited art fails to meet this standard because there is no suggestion in either Haikin, Akin or Thames that developers exchange roles. For the reasons above, claim 1 is allowable over the cited art. In addition, claims 21 and 22 are allowable because they each depend upon the allowable independent claim.

CONCLUSION

In light of the amendments and remarks made herein, Applicants submit that all pending claims are allowable and earnestly solicits notice thereof. Applicants are not conceding in this application that the unamended and canceled claims are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution of the allowable subject matter. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

A Request for a One-Month Extension of Time is being filed and paid for electronically in conjunction with this Response so that Applicants have until September 22, 2008 to respond. It is believed that no other fees are due with the filing of this Amendment/Response. However, should any other fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of IBM Corporation, Deposit Account No. 09-0447.

Respectfully submitted,

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